

Remarks

Applicants have carefully reviewed the Office Action mailed on April 18, 2007. Applicants respectfully traverse (and do not concede) all objections, rejections, adverse statements, and adverse assertions made by the Examiner. With this amendment, claims 43 and 51 are amended. No new matter is added. Claims 31-37, 39, and 41-57 remain pending.

Claim Rejections Under 35 U.S.C. §102

Claims 31, 32, 35-37, 39, 43, 44, 47, 48, 51, 52, and 55 are rejected under 35 U.S.C. §102(b) as being anticipated by Grayhack et al. in U.S. Patent No. 4,611,594. Applicants respectfully traverse this rejection. Regarding claims 31, 32, 35-37, and 39, claim 31 recites that the retrieval adaptor has a longitudinal axis and that the distal end of the retrieval adapter includes an opening oblique to the longitudinal axis. Grayhack et al. does not appear to teach or suggest this limitation. Instead, the distal opening of catheter 10 is aligned with, rather than oblique to, the longitudinal axis. Likewise, the gussets 20 in catheter 10 are perpendicular to the longitudinal axis. Based on this distinction, Applicants respectfully submit that claim 31 is patentable over Grayhack et al. Because claims 32, 35-37, and 39 depend from claim 31, they are also patentable for the same reason as claim 31.

Regarding claims 43, 44, 47, and 48, claim 43 is similarly amended to recite that the retrieval adaptor has a longitudinal axis and that the distal end of the retrieval adapter includes an opening oblique to the longitudinal axis. For reasons similar to those set forth above in relation to claim 31, Applicants respectfully submit that this amendment distinguishes claim 43 as well as claims 44, 47, and 48 depending therefrom from the cited art.

Regarding claims 51, 52, and 55, claim 51 is similarly amended to recite that the retrieval adaptor has a longitudinal axis and that the distal end of the retrieval adapter includes an opening oblique to the longitudinal axis. For reasons similar to those set forth above in relation to claims 31 and 43, Applicants respectfully submit that this amendment distinguishes claim 51 as well as claims 52 and 55 depending therefrom from the cited art.

Claim Rejections Under 35 U.S.C. §103

Claims 31, 32, 35-37, and 39 are rejected under 35 U.S.C. §103(a) as being unpatentable over Daniel et al. in U.S. Patent No. 6,171,327 in view of Bagaoisan et al. in U.S. Patent No.

6,152,909. Claim 31 recites that the retrieval adaptor has a longitudinal axis and that the distal end of the retrieval adapter includes an opening oblique to the longitudinal axis. The Examiner indicated that Daniel et al. does not disclose this limitations. However, the Examiner indicated that “Bagaosian discloses a catheter with a distal tip that can be perpendicular to the longitudinal axis or oblique to the longitudinal axis (see figs. 8a, 8b and 8c)”, that “[i]t would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate the angled tip as disclosed by Bagaosian to enhance the retrieval catheter Daniel”, and that “[t]he angled tip provides a wider opening for more easily receiving the filter device.” We respectfully disagree.

Bagaosian et al. discloses an aspiration catheter. Aspiration catheters are typically quite structurally different from apparatuses for retrieving a vascular filter. For example, the claimed apparatuses include a retrieval adapter that is configured to radially expand and receive at least a portion of a vascular filter. Conversely, aspiration catheters are not typically expandable and, instead, need sufficient strength to withstand the aspiration process. For example, Bagaosian discloses that the distal tip of an aspiration catheter “must also be strong enough to avoid collapse during aspiration.” Col. 11, ll 43-47. This teaching is contrary to the claimed adapter that is configured to radially expand. Because Bagaosian et al. teaches this structural distinction, Bagaosian et al. “teaches away” from incorporating any of the features of an aspiration catheter, in particular any feature associated with the distal tip of an aspiration filter, with filter retrieval devices such as the ones disclosed by Daniel et al. Consequently, Applicants respectfully submit that claim 31 is patentable over the cited art because, for example, there is no teaching, suggestion, or motivation to combine Bagaosian et al. with Daniel et al. and, instead, Bagaosian et al. teaches away from making such a combination. Because claims 32, 35-37, and 39 depend from claim 31, they are also patentable over the cited art based on these remarks.

Claims 33 and 34 are rejected under 35 U.S.C. §103(a) as being unpatentable over Daniel et al. in view of Bagaosian et al. as applied to claim 31 above and further in view of Ferrera et al. in U.S. Patent No. 6,240,231. For the reasons set forth above, Applicants respectfully submit claim 31 is patentable over Daniel et al. and Bagaosian et al. as explained above. Ferrera et al. fails to overcome this deficiency. Consequently, Applicants respectfully submit that claim 31 is patentable over the combination of Daniel et al., Bagaosian et al., and Ferrera et al., to the extent

that such a combination is even possible. Because claims 33 and 34 depend from claim 31, they are also patentable over the cited art based on these remarks.

Claims 33, 34, 45, 46, 53, and 54 are rejected under 35 U.S.C. §103(a) as being unpatentable over Grayhack et al. in view of Ferrera et al. Regarding claims 33 and 34, claim 31 is believed to be patentable over Grayhack et al. because, for example, Grayhack et al. fails to teach or suggest all the claim limitations of claim 31. Ferrera et al. fails to overcome this deficiency. Consequently, Applicants respectfully submit that claim 31 is patentable over the combination of Grayhack et al. and Ferrera et al., to the extent that such a combination is even permissible. Because claims 33 and 34 depend from claim 31, they are also patentable over the cited art for the same reasons.

Regarding claims 45 and 46, as indicated above amended claim 43 is believed to be patentable over Grayhack et al. because, for example, Grayhack et al. fails to teach or suggest all the claim limitations of claim 43. Ferrera et al. fails to overcome this deficiency. Consequently, Applicants respectfully submit that amended claim 43 is patentable over the combination of Grayhack et al. and Ferrera et al., to the extent that such a combination is even possible. Because claims 45 and 46 depend from claim 43, they are also patentable for the same reasons as claim 43.

Regarding claims 53 and 54, as indicated above amended claim 51 is believed to be patentable over Grayhack et al. because, for example, Grayhack et al. fails to teach or suggest all the claim limitations of claim 51. Ferrera et al. fails to overcome this deficiency. Consequently, Applicants respectfully submit that amended claim 51 is patentable over the combination of Grayhack et al. and Ferrera et al., to the extent that such a combination is even possible. Because claims 53 and 54 depend from claim 51, they are also patentable for the same reasons as claim 51.

Claims 41 and 42 are rejected under 35 U.S.C. §103(a) as being unpatentable over Daniel et al. in view of Bagaosian et al. as applied to claim 31 above and further in view of Green in U.S. Patent No. 6,485,501. For the reasons set forth above, Applicants respectfully submit claim 31 is patentable over Daniel et al. and Bagaosian et al. as explained above. Green fails to overcome the deficiencies of the cited art. Consequently, Applicants respectfully submit that claim 31 is patentable over the combination of Daniel et al., Bagaosian et al., and Green, to the

extent that such a combination is even possible. Because claims 41 and 42 depend from claim 31, they are also patentable over the cited art based on these remarks.

Claims 41, 42, 49, 50, 56, and 57 are rejected under 35 U.S.C. §103(a) as being unpatentable over Grayhack et al. in view of Green. Regarding claims 41 and 42, claim 31 is believed to be patentable over Grayhack et al. because, for example, Grayhack et al. fails to teach or suggest all the claim limitations of claim 31. Green fails to overcome this deficiency. Consequently, Applicants respectfully submit that claim 31 is patentable over the combination of Grayhack et al. and Green, to the extent that such a combination is even permissible. Because claims 41 and 42 depend from claim 31, they are also patentable over the cited art for the same reasons.

Regarding claims 49 and 50, as indicated above amended claim 43 is believed to be patentable over Grayhack et al. because, for example, Grayhack et al. fails to teach or suggest all the claim limitations of claim 43. Green fails to overcome this deficiency. Consequently, Applicants respectfully submit that amended claim 43 is patentable over the combination of Grayhack et al. and Green, to the extent that such a combination is even possible. Because claims 49 and 50 depend from claim 43, they are also patentable for the same reasons as claim 43.

Regarding claims 56 and 57, as indicated above amended claim 51 is believed to be patentable over Grayhack et al. because, for example, Grayhack et al. fails to teach or suggest all the claim limitations of claim 51. Green fails to overcome this deficiency. Consequently, Applicants respectfully submit that amended claim 51 is patentable over the combination of Grayhack et al. and Green, to the extent that such a combination is even possible. Because claims 56 and 57 depend from claim 51, they are also patentable for the same reasons as claim 51.

Double Patenting Rejections

Claims 31-34, 36-38, 42-45, 48, and 50-54 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9, 11-19, and 21-25 of Krolik et al. in U.S. Patent No. 6,663,651 in view of Daniel et al. It is believed that this double patenting rejection is made over the cited claims of Krolik et al. and that Daniel et al. is provided to support this rejection. Consequently, Applicants respond to this rejection by

enclosing herewith a terminal disclaimer in compliance with 37 CFR 1.321(c) that disclaims any term extending beyond that of Krolik et al. Although not conceding the merits of this rejection, Applicants respectfully submit that the terminal disclaimer overcomes this rejection, and that such filing has no effect on patent term.

Conclusion

Reexamination and reconsideration are requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is also respectfully requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

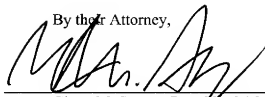
Respectfully submitted,

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By their Attorney,

Date

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